

**ATTESTATION REPORT
OF
MERRICK COUNTY COURT
JANUARY 1, 2021, THROUGH DECEMBER 31, 2022**

**This document is an official public record of the State of Nebraska, issued by
the Auditor of Public Accounts.**

**Modification of this document may change the accuracy of the original
document and may be prohibited by law.**

Issued on May 9, 2023

*The **Nebraska Auditor of Public Accounts Office** was created by the first territorial Legislature in 1855. The Auditor was the general accountant and revenue officer of the territory. Those duties have expanded and evolved over the decades, as modern accounting theory has been implemented. The office of the Auditor of Public Accounts is one of six offices making up the executive branch of Nebraska State Government. Mike Foley was elected in November 2006 and re-elected in November 2010 and November 2022 as the Nebraska Auditor of Public Accounts. He was sworn into office on January 5, 2023, and is Nebraska's 24th State Auditor.*

The mission of the Nebraska Auditor of Public Accounts' office is to provide independent, accurate, and timely audits, reviews, or investigations of the financial operations of Nebraska State and local governments.

We will provide this information, as required by statute, to all policymakers and taxpayers through written reports and our Internet-based Budget and Audit databases.

We will maintain a professionally prepared staff, utilizing up-to-date technology, and following current Government Auditing Standards.

Audit Staff Working On This Examination

Matt Schochenmaier, CPA, CISA, CFE – Audit Manager

Delani Fahey - Auditor

Our reports can be found electronically at: auditors.nebraska.gov

Additionally, you may request them by contacting us at:

Nebraska Auditor of Public Accounts

State Capitol, Suite 2303

P.O. Box 98917

Lincoln, Nebraska 68509

Phone: 402-471-2111

MERRICK COUNTY COURT

TABLE OF CONTENTS

	<u>Page</u>
<u>Comments Section</u>	
Summary of Comments	1
Comments and Recommendations	2 - 4
<u>Financial Section</u>	
Independent Accountant's Report	5 - 6
Financial Schedules:	
Schedule of Changes in Assets and Liabilities Arising from Cash Transactions - Custodial Funds - For the Calendar Year Ended December 31, 2022	7
Schedule of Changes in Assets and Liabilities Arising from Cash Transactions - Custodial Funds - For the Calendar Year Ended December 31, 2021	8
Notes to Financial Schedule	9

MERRICK COUNTY COURT

SUMMARY OF COMMENTS

During our examination of the Merrick County Court, we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with *Government Auditing Standards*: Comment #2 (“Monthly Case Balances”), which is considered to be significant deficiency, and Comment #1 (“Segregation of Duties”), which is considered to be a material weakness.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Segregation of Duties:*** One individual was capable of handling all phases of a transaction from beginning to end.
2. ***Monthly Case Balances:*** The County Court did not adequately review the Monthly Case Balance Report and take corrective action to resolve issues found therein.
3. ***Overdue Balances:*** The County Court did not review its overdue balances on an ongoing, timely basis to ensure collection and/or resolution of such balances.

More detailed information on the above items is provided hereinafter. It should be noted that this report is critical in nature, as it contains only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the County Court.

Draft copies of this report were furnished to the County Court to provide management with an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

MERRICK COUNTY COURT

COMMENTS AND RECOMMENDATIONS

1. Segregation of Duties

Good internal control includes a plan of organization, procedures, and documentation designed to safeguard assets and to provide reliable financial records. A system of internal control should include a proper segregation of duties, so no one individual is capable of handling all phases of a transaction from beginning to end.

We noted that the office of the County Court lacked a sufficient segregation of duties, as one person was capable of handling all aspects of processing transactions from beginning to end. Additionally, staff could create and issue orders affixed with the Judge's signature in the JUSTICE (Judicial User System to Improve Court Efficiency) application without formal documentation to support that the Judge approved the order. That same staff had access to court receipts and were able to record non-monetary transactions (e.g., waiving fines) in JUSTICE. We noted further that Merrick County Court access had been given also to two other Clerk Magistrates who were not employees of the Merrick County Court.

A lack of segregation of duties increases the risk of possible errors or irregularities; however, due to a limited number of personnel, an adequate segregation of duties may not be possible without additional cost. Further, personnel are under the direction of both the Nebraska State Court Administrator and the Presiding Judge.

We have included this comment in previous examinations.

We recommend the County Court and the Nebraska State Court Administrator review this situation. As always, the cost of hiring additional personnel versus the benefit of a proper segregation of duties must be weighed. We also recommend the Supreme Court implement procedures to ensure that each Judge's approval of orders is formally documented.

County Court's Response: The Administrative Office of the Courts and Probation (AOCP) accepts that there is a risk from one person having the authority to initiate and complete financial transactions. To reduce the risk of improper transactions, court financial specialists review court records and provide assistance to county courts if there are discrepancies. However, the Judicial Branch does not have the financial and human resources to mitigate all risks related to segregation of duties sufficient to meet current audit guidelines. As a result, in order to fulfill statutory obligations, the AOCP has determined that all clerk magistrates will have the authority to operate all financial functions of a court.

2. Monthly Case Balances

During testing of 12 balances on the Monthly Case Balance Report, 7, totaling \$1,951, lacked adequate action by the County Court to ensure proper and timely resolution of the balances. As of December 31, 2022, the County Court held \$62,983 in case balances.

During testing, the following was noted:

- Two cases held balances, totaling \$1,125, consisting of bond funds. The bonds were satisfied in September 2021 and July 2022, respectively. However, the Court did not return the funds until January 2023.
- Three cases held balances, totaling \$617, that were overpayments. The Court received the overpayments between August 2021 and June 2022 but had not attempted to refund the overpayments prior to the APA's inquiry.

MERRICK COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Monthly Case Balances** (Concluded)

- Two cases held balances, totaling \$209, that the Court attempted to return to the payees via check, but the checks were not cashed and had been outstanding for over three years. The checks were dated November 2017 and March 2018, respectively, and were both due to the State Treasurer as unclaimed property by November 1, 2021. However, the Court did not submit the checks to the State Treasurer until October 31, 2022.

Neb. Rev. Stat. § 69-1307.01 (Reissue 2018), which is found in the Uniform Disposition of Unclaimed Property Act, presumes intangible personal property held by a court and unclaimed for more than three years to be abandoned. Neb. Rev. Stat. § 69-1310 (Cum. Supp. 2022), requires any property presumed abandoned, as of June 30 each year, to be reported and remitted to the State Treasurer by November 1 annually.

Good internal controls require the County Court to have procedures for an ongoing, detailed review of monthly financial reports, including the Monthly Case Balance Report.

Without such procedures, there is an increased risk of errors, omissions, and/or irregularities not being detected and resolved in a timely manner.

A similar finding was noted in our prior examination.

We recommend the County Court implement procedures for an ongoing, detailed review of all monthly financial reports, including the Monthly Case Balance Report, and resolve any unusual or improper balances in a complete, accurate, and timely manner. We further recommend the County Court work to remit promptly to the State Treasurer all property in its possession that is presumed abandoned, as required by State statute.

County Court's Response: Corrective action has been taken on all of the noted issues. The County Court has implemented procedures for an ongoing, detailed review of all monthly financial reports, including the Monthly Case Balance Report, in order to resolve any unusual or improper balances in a complete, accurate, and timely manner and to remit abandoned property by November 1, annually.

3. **Overdue Balances**

Good internal control and sound business practices require overdue balances of the County Court to be reviewed on an ongoing, timely basis to determine what action should be taken to collect or otherwise resolve those balances.

During testing of five overdue balances, three, totaling \$1,322, lacked subsequent action by the County Court, such as the issuance of warrants and/or suspensions or declaration of certain overdue balances as uncollectible, to ensure collection and/or resolution of the balances. As of February 28, 2023, overdue balances, excluding restitution judgments, totaled \$20,604.

During testing, the following was noted:

- Two case balances, totaling \$1,305, were the result of the Court failing to apply time defendants served in jail towards amounts due in the cases. The defendants served time in January 2021 and August 2022, respectively, but the Court neglected to apply the jail time to the balances in the cases.

MERRICK COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Concluded)

3. Overdue Balances (Concluded)

- One \$17 case balance was not actually due in the case. The County paid the balance in the case in October 2016, but the Court failed to reimburse the County.

Without a regular review of overdue case balances, there is an increased risk of overdue balances either not having proper follow-up action taken or having been previously resolved and no longer needing to be reflected as overdue.

We recommend the County Court implement an ongoing, timely review of its Overdue Case Account reports to ensure the timely collection and/or resolution of overdue balances.

County Court's Response: Corrective action has been taken to address the noted issues. The County Court has implemented an ongoing, timely review of the Overdue Case Account reports to ensure the timely collection and/or resolution of overdue balances.



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov

PO Box 98917

State Capitol, Suite 2303

Lincoln, Nebraska 68509

402-471-2111, FAX 402-471-3301

auditors.nebraska.gov

MERRICK COUNTY COURT

INDEPENDENT ACCOUNTANT'S REPORT

Merrick County Court
Central City, Nebraska 68826

We have examined the accompanying Schedules of Changes in Assets and Liabilities Arising from Cash Transactions of the Merrick County Court as of and for the calendar years ending December 31, 2021, and December 31, 2022. The County Court's management is responsible for the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion on the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions are based on the accounting system and procedures set forth in Note 1, in all material respects. An examination involves performing procedures to obtain evidence about the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

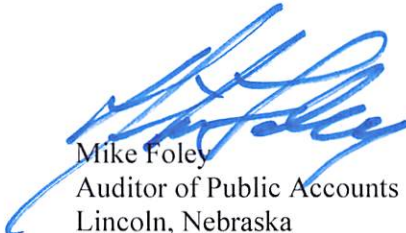
In our opinion, the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions for the calendar years ending December 31, 2021, and December 31, 2022, are based on the accounting system and procedures prescribed by the Nebraska Supreme Court, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; noncompliance with provisions of laws, regulations, contracts, or grant agreements that have a material effect on the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions; fraud that is material, either quantitatively or qualitatively, to the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions; and any other instances that warrant the attention of those charged with governance. We are also required to obtain and report the views of management concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedules of Changes in Assets and Liabilities

Arising from Cash Transactions or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

The purpose of this report is to express an opinion on the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions, as described in paragraph one above. Accordingly, this report is not suitable for any other purpose. This report is a matter of public record, and its distribution is not limited.

May 5, 2023



Mike Foley
Auditor of Public Accounts
Lincoln, Nebraska

MERRICK COUNTY COURT
CENTRAL CITY, NEBRASKA
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
CUSTODIAL FUNDS

For the Calendar Year Ended December 31, 2022

	Balance January 1, 2022	Additions	Deductions	Balance December 31, 2022
ASSETS				
Cash and Deposits	\$ 82,102	\$ 393,879	\$ 394,135	\$ 81,846
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 3,488	\$ 36,731	\$ 37,256	\$ 2,963
Law Enforcement Fees	327	5,021	4,984	364
State Judges Retirement Fund	1,754	27,348	26,994	2,108
Court Administrative Fees	2,098	24,527	24,365	2,260
Legal Services Fees	1,232	18,539	18,415	1,356
Due to County Treasurer:				
Regular Fines	9,580	141,452	141,483	9,549
Overload Fines	-	1,100	1,100	-
Regular Fees	10	2,035	1,842	203
Petty Cash Fund	60	-	-	60
Municipality Fines	-	737	737	-
Trust Fund Payable	63,553	136,389	136,959	62,983
Total Liabilities	\$ 82,102	\$ 393,879	\$ 394,135	\$ 81,846

The accompanying notes are an integral part of the Schedule.

MERRICK COUNTY COURT
CENTRAL CITY, NEBRASKA
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
CUSTODIAL FUNDS

For the Calendar Year Ended December 31, 2021

	Balance January 1, 2021	Additions	Deductions	Balance December 31, 2021
ASSETS				
Cash and Deposits	\$ 68,817	\$ 443,200	\$ 429,915	\$ 82,102
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 3,891	\$ 44,499	\$ 44,902	\$ 3,488
Law Enforcement Fees	302	4,639	4,614	327
State Judges Retirement Fund	1,373	23,169	22,788	1,754
Court Administrative Fees	1,463	24,122	23,487	2,098
Legal Services Fees	1,155	17,544	17,467	1,232
Due to County Treasurer:				
Regular Fines	9,543	131,164	131,127	9,580
Overload Fines	-	2,225	2,225	-
Regular Fees	(53)	9,535	9,472	10
Petty Cash Fund	60	-	-	60
Municipality Fines	-	525	525	-
Trust Fund Payable	51,083	185,778	173,308	63,553
Total Liabilities	\$ 68,817	\$ 443,200	\$ 429,915	\$ 82,102

The accompanying notes are an integral part of the schedule.

MERRICK COUNTY COURT
NOTES TO FINANCIAL SCHEDULES

For the Calendar Years Ending December 31, 2021, and December 31, 2022

1. Criteria

A. Reporting Entity

The Merrick County Court is established by State statute and is administratively operated through the Court Administrator's Office of the Nebraska Supreme Court, which is part of the State of Nebraska reporting entity. The Schedules of Changes in Assets and Liabilities Arising from Cash Transactions of the County Court reflect only the Custodial Funds activity of the County Court, including the receipts and their subsequent disbursement to the appropriate entities for which they were collected. The Schedules do not reflect the personal services expenses of the County Court, which are paid by the Nebraska Supreme Court, or the operating expenses, which are paid by Merrick County.

B. Basis of Accounting

The accounting records of the County Court Custodial Funds are maintained, and the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions have been prepared, based on the accounting system and procedures prescribed by the Nebraska Supreme Court. Under this system of accounting, fines, fees, and receipts relating to trust funds are shown as additions to assets and as an increase in the related liability when received or collected. Likewise, disbursements are shown as deductions to assets and as a decrease in the related liability when a check is written.

2. Deposits and Investments

Funds held by the County Court are deposited and invested in accordance with rules issued by the Supreme Court, as directed by Neb. Rev. Stat. § 25-2713 (Reissue 2016). Funds are generally consolidated in an interest-bearing checking account; however, the County Court may order certain trust funds to be invested separately. Any deposits in excess of the amount insured by the Federal Deposit Insurance Corporation are required by Neb. Rev. Stat. § 77-2326.04 (Reissue 2018) to be secured either by a surety bond or as provided in the Public Funds Deposit Security Act.